

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-3, 7-8, 14 and 17 were rejected under 35 U.S.C. 102(b) as being anticipated by Appel et al., US Patent 6,025,320. Applicants respectfully disagree. Appel does not disclose a graft copolymer with cationically chargeable or charged side chains containing a tertiary or quaternary nitrogen atom actually attached to the polymer. For anticipation, "it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy 17 USPQ2d 1461, 1462. The Examiner appears to allege that such cationically chargeable side chains are inherently present due to presence of EDT or EDTMP or DETPMP at column 7, lines 57-64 of Appel. It does not appear, however, that the Examiner has established that a graft copolymer consisting of backbone and cationic side chains as presently claimed is inevitably present in the Appel patent. In re Oelrich, 212 U.S.P.Q. 323, 326 (1981), the C.C.P.A. said that:

[i]nherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. If however, the disclosure is sufficient to show that the natural result flowing from the operation as taught would result in the performance of the questioned function, it seems to be well settled that the disclosure should be regarded as sufficient.

However, inherency may not be established by probabilities or possibilities, the court stressed in In re Robertson, CAFC No. 98-1270, 2/25/99. Consequently, it is respectfully requested that the anticipation rejection over Appel be reconsidered and withdrawn.

Claims 9-13, 15-16 and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Appel et al. U.S. Patent 6,025,320 as applied to claims 1-3, 7-8, 14 and 17 and further in view of Ruppert et al., US patent 4,579,681. Applicants

respectfully traverse the rejection. Ruppert discloses detergent active that may contain dimethylaminoethyl methacrylate at column 1, lines 55, 60 and columns 2, lines 9-10. Ruppert does not appear to disclose a graft copolymer which has a backbone and then grafted side chains, at least one of which is a cationically chargeable or charged side chain. The technical effect of this difference is that in the current invention having such side chains protruding from the backbone of the polymer allows the whole of the polymer to bind to the surface of the fabric, without the side chains interfering with the action of the backbone of the polymer itself (see page 5, lines 4 to 5) or having any other detrimental effects. Hence the problem that the current invention is seeking to solve is how to bind such polymers to fabric, that is provide soil release on cotton, without interfering with the action of the polymer itself. This is solved in the present application through the use of grafted cationic side chains.

There is simply no teaching within either Appel or Ruppert of the criticality of the polymers having cationic side chains, let alone having them grafted on the polymer.

Thus, Appel, alone or in combination with Ruppert, provides no incentive or motivation to modify the polymer in such a way as to arrive at the grafted copolymer with the cationically chargeable side chains as presently claimed. It is not seen how one of ordinary skill in the art, who has not had the benefit of hindsight afforded by the present disclosure, would have been led to combine Ruppert with Appel by picking a teaching of cationic compound within Ruppert and then modifying Appel's polymers by grafting such a compound onto Appel's polymers. Thus, with regard to the rejection over Appel in light of Ruppert, applicants respectfully submit that there is no *prima facie* case of obviousness made out by the Examiner. There must be motivation to combine the references and modify.

Furthermore, even if the *prima facie* case were made out, the Examiner has not responded to the applicants' argument of the evidence of unexpected results in applicants' specification, particularly at pages 22 and 23 of this specification. Furthermore, even if the references were combined, the mole percent content of the cationically charged unit in the polymer does not appear to be taught by the combination of the references.

In light of the above amendments and remarks, it is respectfully requested that the rejections be withdrawn and the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



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